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SEA

SERVICE DATE – OCTOBER 14, 2005

SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423

## ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-290 (SUB-NO. 236X)

**The Cincinnati, New Orleans, and Texas Pacific Railway Company - Abandonment  
Exemption -In Roane County, TN**

### **BACKGROUND**

On August 15, 2005, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly owned subsidiary of Norfolk Southern Railway Company, filed a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an approximately 1.1-mile line of railroad, extending from milepost 156.9-H to milepost 158.0-H in Rockwood, Roane County, TN. The line traverses United States Postal Service Zip Code 37854, and serves the station at Rockwood. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA). If the petition becomes effective, the railroad will be able to salvage track, ties, and other railroad appurtenances and dispose of the right-of-way. According to CNOTP, if abandonment authority is granted, it intends maintain the line intact and sell it to Franklin Industries (Franklin) for continued rail use as part of Franklin's private railroad operation.<sup>1</sup>

### **DESCRIPTION OF THE LINE**

The line is a 1.1-mile segment connecting to a 15.4-mile dead-end private rail line owned by Franklin. In its petition, CNOTP explains that Franklin intends to purchase the line and operate a run-around track that would facilitate interchange of Franklin's rail traffic with CNOTP. CNOTP intends to continue using the line under an agreement with Franklin to interchange traffic with both Franklin and Horsehead Resource Development, Inc, the two shippers on the line.

### **ENVIRONMENTAL REVIEW**

The railroad has submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any

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<sup>1</sup> Franklin previously acquired a 15.4-mile line of railroad (known as the Crab Orchard Line) from CNOTP. See The Cincinnati, New Orleans and Texas Pacific Railway Company– Abandonment Exemption–in Cumberland and Roane Counties, TN, STB Docket No. AB-290 (Sub-No. 208X) (STB served Nov. 15, 2000).

post-abandonment activities, including salvage and disposition of the right-of-way. The railroad has served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules at 49 CFR 1105.7(b). We have investigated and reviewed the record in this proceeding.

Comments have been received from the following agencies stating that the proposed abandonment would have no adverse impacts: U.S. Department of Agriculture, Natural Resources Conservation Service; U.S. Department of Commerce, National Geodetic Survey; U.S. Fish and Wildlife Service; Tennessee Department of Environment and Conservation, Division of Air Pollution Control; Tennessee Department of Environment and Conservation, Division of Solid Waste; the Tennessee Department of Environment and Conservation, Division of Hazardous Waste and the Tennessee Historical Commission.

## **Transportation**

CNOTP explains that if the proposed abandonment is granted, the existing shippers would not lose rail service, and the diversion of rail traffic to truck would not occur, because Franklin industries would continue to operate the track and provide service to the shippers. CNOTP states that no overhead traffic is currently moving over the rail line and that there is no potential for overhead traffic because it is a short, dead-end branch line.

In the event that the proposed sale of the line to Franklin does not occur, truck traffic would be added to area roadways. CNOTP states that 4,550 carloads<sup>2</sup> were moved on the line during the base year (2004). Using a rail-to-truck conversion factor of 4 trucks per railcar,<sup>3</sup> SEA calculates that, if all the rail traffic is diverted to truck traffic, the abandonment would generate an estimated 18,200 new truck trips per year (36,400 truck trips assuming an empty backhaul). Assuming an empty backhaul, this equates to approximately 146 truck trips per day being added to area roads during a 240 workday year.<sup>4</sup> According to CNOTP, shippers that use the line consent to the proposed abandonment. SEA believes that the addition of 146 truck trips per day would result in some, but not significant, adverse impacts to the local road network. The majority of the diverted truck traffic would only travel ½ of a mile on local roadways before existing onto Interstate 40.

## **Energy Consumption**

If the CNOTP line is conveyed to Franklin, the two existing shippers would continue to use the rail line. Energy consumption would not increase. If the line is not conveyed to Franklin, the additional amount of fuel consumed annually in Tennessee as a result of the

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<sup>2</sup> James Paschall, petitioner's attorney, provided this information in an e-mail of October 11, 2005.

<sup>3</sup> The conversion factor is an estimate used to calculate the rail to truck conversion of varied commodities.

<sup>4</sup> 240 workdays result when weekends and holidays are subtracted from a 365 day year.

diversion of rail traffic to trucks is expected to be small. Accordingly, the proposed abandonment would not result in any adverse effect on the transportation of energy resources of recyclable commodities.

## **Land Use**

Because the abandonment, as proposed, would not result in any change in land use, SEA believes that the proposed action would not result in any adverse impacts. In a letters dated April 22, 2005, April 26, 2005, April 27, 2005, and May 22, 2005, the U.S. Department of Agriculture, Natural Resources Conservation Service, states that the abandonment, as proposed, would not result in any adverse impact on the conservation of natural resources.

## **Air and Noise Impacts**

The Board has established air quality and noise level threshold levels as set forth at 49 CFR 1105.7(e) (5) (ii) and (e) (6). These thresholds are guidelines that are considered, along with other supporting information, to determine whether the air pollution and noise levels generated by rail traffic diverted to alternative modes warrant detailed analysis. Because no change in current use of the property and no salvage of the track is proposed, it is unlikely that any adverse impacts to noise levels and air quality would occur. In a letter dated April 15, 2005, the Tennessee Department of Environment and Conservation, Division of Air Pollution Control (TDEC-APC), states that the proposed abandonment would not result in any adverse impact on air quality. In the event that rail traffic is diverted to motor carriers, potential impacts to air quality are expected to be negligible. The rail line is located in an area classified as Attainment under the Clean Air Act. Similarly, impacts to noise levels are also expected to be negligible.

## **Solid and Hazardous Waste**

In an email dated October 10, 2005, Mr. Lee Baron, Tennessee Department of Environment and Conservation, Superfund Section (TN-DECSS), states the rail line is adjacent to two State of Tennessee Superfund Sites, the Rockwood Iron & Metal Site and the Roane Alloy Site. CNOTP maintains that no salvage activities or disturbance of the ground would occur as part of this proposed abandonment. Under these circumstances, no adverse impacts to the Superfund sites are anticipated. In the event that CNOTP decides to salvage the track, it should consult with the TN-DECSS prior to commencing any ground disturbance.

## **Biological Resources**

In a letter dated May 2, 2005, the U.S. Fish and Wildlife Service (FWS) stated that the project, as proposed, would not result in adverse impacts to wetlands or federally listed endangered or threatened species. SEA concurs with the conclusion of the FWS. Moreover, CNOTP states that it does not believe that the rail line proposed for abandonment would adversely affect any wildlife sanctuaries or refuges, national or state parks or forests.

## **Water Resources**

SEA notes that CNOTP intends to sell the rail line to Franklin to be used as part of its existing private rail system and would not undertake any salvage activities. Under these circumstances, SEA believes that the abandonment, as proposed, will not result in any adverse impacts to water resources. In the event that the line is salvaged, impacts to water quality should not be significant.

## **Cultural and Historic Resources**

CNOTP submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)]. CNOTP served the report on the Tennessee State Historic Preservation Office (SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would have no adverse effect on historic properties listed or eligible for inclusion in the National Register of Historic Places (National Register). We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment would not adversely affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(e), consists of CNOTP historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

SEA has identified the Eastern Band of Cherokee Indians as a federally recognized Native American tribe that may have ancestral connections to the area. The Eastern Band of Cherokee Indians will be added to the service list for this proceeding and will receive a copy of this EA for their review and comment.

In a letter dated May 5, 2005, the U.S. Department of Commerce, National Geodetic Survey, states that there is one (1) geodetic station marker that may be affected by the proposed abandonment.

## **CONDITIONS**

SEA recommends that the following conditions be imposed on any decision granting abandonment authority.

- 1. The Cincinnati, New Orleans and Texas Pacific Railway Company shall notify the U.S. Department of Commerce, National Geodetic Survey not less than ninety days prior to commencement of any activities that will disturb or destroy the single survey marker on the right-of-way.**

- 2. Prior to commencement of any activities that would result in the disturbance of soils along the right-of-way, the Cincinnati, New Orleans and Texas Pacific Railway Company shall consult with the Tennessee Department of Environment and Conservation, Superfund Section to ensure that any concerns regarding potential disturbance of land within the Rockwood Iron & Metal and the Roane Alloy Superfund sites are addressed.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, we conclude that, as currently proposed, and subject to the recommended mitigation measures, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

In addition to an exemption from 49 U.S.C. 10903, CNOTP seeks exemption from 49 U.S.C. 10904 [offer of financial assistance procedures] and 49 U.S.C. 10905 [public use conditions]. In support, CNOTP contends that the exemption from these provisions is necessary to permit conveyance of the line to Franklin, for continued operation as part of Franklin's private railroad operation.

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. Unless the Board grants the requested exemption from the public use provisions, any request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

CNOTP is not aware of any reversionary interest that would affect the transfer of title.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

CNOTP states that it will not negotiate with any potential trail user for possible transfer of the right-of-way for interim trail use because it intends to sell the right-of-way to Franklin for continued operation as a private rail line.

## **PUBLIC ASSISTANCE**

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 236X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Mr. Brady, the environmental contact for this case, by phone at (202) 565-1643, fax at (202) 565-9000, or e-mail at [bradyt@stb.dot.gov](mailto:bradyt@stb.dot.gov).

Date made available to the public: **October 14, 2005.**

**Comment due date: November 14, 2005.**

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams  
Secretary

Attachment